

Do you need to do some stream work after the flood?

Recent flood events in Montana will change some floodplain property through channel migration, scouring, and deposition of bed load and detritus. Property may be eroded, it may be cut off from roads or bridges, and irrigation infrastructure may be scoured out, silted in, or no longer located on the river. After water recedes, land and water users may need to disturb the floodplain to mitigate property damage and protect land and water from further erosion.

Any disturbance in a floodplain will require permission from one or more government agencies. Conservation districts (CDs) are responsible for authorizing work on stream bed and banks by issuing a 310 permit. Every county has a Conservation District. Contact your local CD and ask them what other requirements may apply. Information about your CD is available at:

<http://dnrc.mt.gov/cardd/consdist/CDdirectoryBinder.pdf>.

Other permits may be required depending on the situation. Other web resources:

- DNRC stream permitting website: <http://www.dnrc.mt.gov/permits/>
- *A Guide to Stream Permitting in Montana*, available at your CD office and at <http://dnrc.mt.gov/permits/streampermitting/default.asp>

The 310 permitting process pertains to private (not government) landowners. Government agencies have different permitting requirements and should refer to DNRC's stream permitting website for more permitting information: <http://www.dnrc.mt.gov/permits>

What is a 310 permit?

Natural Streambed and Land Preservation Act (310 Law) is intended to protect and preserve natural rivers and perennial-flowing streams to be available in their natural or existing state.

What triggers the requirement for a 310 permit?

Applies to any activity on the bed or immediate bank of a river or perennial stream, including situations where a person (not a government agency) wants to:

- return a perennial-flowing stream to its former channel,
- work in the bed or on the immediate banks of the newly channelized part of the perennial-flowing stream, or the former channel of the stream.

Who approves a 310 permit?

Conservation districts receive applications and conduct on-site inspections with a team typically consisting of a CD supervisor, a representative from Montana Fish, Wildlife and Parks, and the applicant. This team makes a recommendation to the entire CD board whether to deny, approve or modify the activity. The CD board approves or denies the 310 permit. This process typically takes two to 8 weeks.

What criteria do the CDs use when considering approval of a 310 permit?

- Project purpose and whether the project is reasonable;
- effects on soil erosion and sedimentation;
- whether there are modifications or alternative solutions that would reduce the impact;
- whether the proposed project will create harmful flooding or erosion problems;
- effects on stream channel alteration, streamflow, turbidity, and water quality; and
- effect on fish and aquatic habitat.

What if I need to work in the stream immediately and can't wait for the permitting process?

Conservation Districts have a procedure for addressing work needed during an emergency. If work is necessary to do immediately to safeguard life, property, or growing crops, the person doing the work must notify a conservation district within 15 days of the work (use form 275 at http://dnrc.mt.gov/permits/streampermitting/310_forms.asp)

The CD will conduct an inspection of the work. An application for a permit to modify or remove the work undertaken during the emergency may be required so it is always best to go through the regular permitting process if there is time (the regular permitting process takes from two weeks to sixty days after a complete application has been submitted).

- CD contact information is available at:
<http://dnrc.mt.gov/cardd/consdist/CDdirectoryBinder.pdf>
- Be mindful about potential liability your emergency work may have on adjacent properties.
- Understand that work done still has to go through necessary permit processes after the emergency is over.
- Understand that your emergency work may have to be mitigated to meet agency requirements.
- Be sure to contact all other potential responsible permitting agencies (Use "A Guide to Stream Permitting in Montana") available at local permitting offices. This is also available at <http://dnrc.mt.gov/permits/streampermitting/default.asp>

Why Conservation Districts are careful about permitting post-flood activities

While this year's flooding has caused historical property damage in some areas and will need human intervention to protect downstream channels, seasonal flooding is typically beneficial to the floodplain. Normal spring floods replenish gravel beds and woody debris for fish habitat, spread nutrient-rich sediments across the floodplain, even triggering germination of riverbank trees such as black cottonwood. Aquatic creatures up and down the food chain benefit from ready access to off-channel habitats, finding cover from predators, shelter from high-volume flows and pockets of cold water during the heat of summer.